

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

JENNIFER MOSCHETTI, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No.: 3:22-cv-24-HEH  
 OFFICE OF THE INSPECTOR )  
 GENERAL, *et al.*, )  
 )  
 Defendants. )

**MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendants the Office of the Inspector General (“OSIG”), the Commonwealth of Virginia, Michael C. Westfall, Kate Hourin, Brian Moran, and Clark Mercer (collectively the “Defendants”), by counsel, move to dismiss the entirety of Plaintiff Jennifer Moschetti’s (“Plaintiff” or “Moschetti”) Amended Complaint (ECF No. 16) pursuant to Rules 12(b)(1) and/or 12(b)(6) of the Federal Rules of Civil Procedure.

The doctrine of qualified immunity precludes Counts I and II of the Amended Complaint, so those claims should be dismissed pursuant to Rule 12(b)(1). Alternatively, and assuming *arguendo* that it does not, those claims should be dismissed pursuant to Rule 12(b)(6) for failure to state a claim. Next, Count III should be dismissed pursuant to Rule 12(b)(1) because Moschetti's pending state court action precludes her from simultaneously litigating the same issues and claim in this Court. Count V should also be dismissed pursuant to Rule 12(b)(1) because it is procedurally barred on several grounds. Finally, Counts IV and VI should be dismissed pursuant to Rule 12(b)(6) for failure to state a claim.

The arguments and authorities in support of this motion are set forth in Defendants' contemporaneously filed *Memorandum in Support of Defendants' Motion to Dismiss Plaintiff's Amended Complaint*, which is incorporated herein by reference.

WHEREFORE, Defendants respectfully move this Court to grant their Motion to Dismiss pursuant to Rules 12(b)(1) and/or 12(b)(6) of the Federal Rules of Civil Procedure, dismiss all Moschetti's claims *with prejudice*, and award Defendants all other just relief.

Dated: May 20, 2022

Respectfully submitted,

**OFFICE OF THE INSPECTOR GENERAL,  
COMMONWEALTH OF VIRGINIA,  
MICHAEL C. WESTFALL, KATE HOURIN,  
BRIAN MORAN, AND CLARK MERCER**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 20th day of May, 2022, I electronically filed the foregoing with the Clerk of this Court using the CM/ECF system, which will send notification of such filing to counsel for Plaintiff:

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